IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 477 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GSRTC - Petitioner(s)

Versus

SHABIR G MALEK - Respondent(s)

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Appearance :

MR HS MUNSHAW for Petitioner(s) : 1,
NOTICE SERVED for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 22/11/2005

ORAL JUDGMENT

1. By way of this petition, the petitioner has challenged the award dated 14.07.2000 passed by the Industrial Tribunal, Nadiad in Reference (IDN) No. 419/98

whereby the Tribunal has quashed and set aside the penalty order passed by the competent authority of the petitioner corporation.

2. The brief facts of the case are that the respondent was working as Art-A-Mechanic at the Dakor Depot of the petitioner corporation. On 22.05.1993, the respondent was on night duty when daily maintenance of two buses was required to be done. Although the respondent checked the buses, there was a break down in one of the buses. A chargesheet was given to the respondent which was not replied. Thereafter, a departmental inquiry was initiated against him. After calling for a personal hearing and giving sufficient opportunity to defend his case, the respondent was found to be negligent in his duties. Hence an order was passed on 25.10.1993 by which a penalty of stoppage of one yearly increment with future effect was imposed. The respondent raised a dispute before the Labour Commissioner which was in turn referred to the Industrial Tribunal, Nadiad whereby the Tribunal passed the aforesaid order. This order has been challenged in this petition.

3. Mr. H.S. Munshaw, the learned advocate for the petitioner contended that looking to the misconduct of

the respondent, the minimum penalty of one increment without future effect was imposed and the Labour Court ought not to have interfered with the same. He further contended that because of the misconduct of the respondent workman, the petitioner corporation suffered a loss and therefore, the of the Tribunal is required to be interfered.

4. As a result of the hearing and perusal of the records, I am of the opinion that the contentions raised by the petitioner are required to be accepted. The Tribunal has committed an error in cancelling the penalty imposed by the competent authority while exercising powers under section 11A of the Act. This petition is, therefore, allowed. The award of the Tribunal is quashed and set aside. The original order of the authority is restored. Rule made absolute accordingly with no order as to costs.

(K.S. JHAVERI, J.)

Divya//